

Directions regarding .....

Strict compliance of procedure prescribed in Rule 49 (9) (a) and 50 of Rules for the Conduct of Legal Affairs of Government, 1984, when decision is adverse to the prosecution.

**GOVERNMENT OF MAHARASHTRA**  
**Law and Judiciary Department**  
**Government Circular No. Appeal No.4617/C.R.104/Desk-14.**  
Madam Cama Road, Hutatma Rajguru Chowk,  
Mantralaya, Mumbai-32.  
Date: 21<sup>st</sup> April, 2017.

**C I R C U L A R**

Whereas in Criminal Application No.982 of 2017 with Appeal No.74 of 2017 Anil S/O Bhikaji Khanpate and Another Vs. State of Maharashtra, the Hon'ble Bombay High Court, Bench at Aurangabad, has noticed that the Ld. Assistant Public Prosecutor has taken the decision not to challenge the judgment, impugned therein and decided on her own, that the case is not fit to prefer the appeal without following the procedure prescribed in Rule 49 (9) (a) and 50 of Rules for the Conduct of Legal Affairs of Government, 1984, which prescribe the course to be followed when decision is adverse to the prosecution.

The Hon'ble High Court observed, inter-alia, as under:

“In view of above, it is necessary for the Department of Law and Judiciary to ensure that the provisions of Rules regulating the legal affairs are strictly complied by all the Public Prosecutors and Additional Public Prosecutors working under its supervisory and administrative control. The Public Prosecutor and Additional Public Prosecutor cannot act as per their whims and desire. They are obliged to follow the Rules governing the conduct of legal affairs framed by the State Government.”

2. In view of the aforesaid directions of the Hon'ble High Court all the Public Prosecutors and Additional/Assistant Public Prosecutors are hereby directed to scrupulously follow the provisions prescribed in the Rules for the Conduct of Legal Affairs of the Government 1984, especially Rule 49 (9) (a) and 50 when the decision is adverse to the prosecution. The Public Prosecutors and Additional/Assistant

Public Prosecutors shall forthwith desist from taking a decision, on their own, without following the procedure prescribed in the aforesaid rules.

3. All the Public Prosecutors and Additional/Assistant Public Prosecutors are hereby directed to strictly adhere to these directions. Any deviation from the prescribed procedure and breach of aforesaid directions would be viewed very seriously and appropriate action will be initiated against Public Prosecutors and Additional/Assistant Public Prosecutors who do not follow the aforesaid rules.

This Government circular of Maharashtra Government is available at the website [www.maharashtra.gov.in](http://www.maharashtra.gov.in). Reference no. for this is 201704241323192712. This circular has been signed digitally.

By order and in the name of the Governor of Maharashtra.

**( N.J. Jamadar )**  
**Principal Secretary and R.L.A.**

**Copy for necessary action:**

1. All Public Prosecutors of all Districts.
2. All Additional Public Prosecutors of all Districts.
3. All Assistant Public Prosecutors of all Districts.